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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,005	01/16/2004	Eckley M. Keach	81452.0002	5029

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WILEY, REIN & FIELDING, LLP
ATTN: PATENT ADMINISTRATION
1776 K. STREET N.W.
WASHINGTON, DC 20006

EXAMINER

DAVIS, CASSANDRA HOPE

ART UNIT PAPER NUMBER

3611

DATE MAILED: 06/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/758,005

Applicant(s)

KEACH, ECKLEY M.

Examiner

Cassandra Davis

Art Unit

3611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 April 2005.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-8 and 10-20 is/are rejected.
7) ☒ Claim(s) 9 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3-8, 13, 15, and 19 rejected under 35 U.S.C. 102(b) as being anticipated by Picture A and B.

With respect to claims 1, 15, and 19, picture B, taken by an examiner and showing a roadway near her office (US Interstate 395), includes a sign system on a highway or freeway having an overhead sign structure at extending over the entire roadway, wherein the overhead sign structure has a forward face (picture B) directed in a primary orientation toward southbound vehicle traffic and a rearward portion (picture A) on an opposing side from the forward face directed in a primary orientation toward northbound vehicle traffic.

Picture B also includes a billboard advertisement or message on the rearward portion of the overhead sign structure. The sign in the center is an

electronic sign showing the date and time "Thur 5/6 11:09 AM". This sign extends over two central lanes High Occupancy Vehicle or HOV lane. The small blue signs show information regarding commuter information and food and lodging.

With respect to claim 3, picture B show an overhead sign structure having two lateral supports beam.

With respect to claim 4, US Interstate 395 seen in picture B is an expressway or a freeway.

With respect to claim 5, the speed limit on US Interstate 395 at the location seen in picture B is 55 miles per hour.

With respect to claims 6 and 7, the rearward portion of the overhead sign structure is directed toward oncoming traffic of an adjacent lane of the roadway. The adjacent lanes are the High Occupancy Vehicle or HOV lanes. The traffic in the HOV lanes alternates between northbound traffic during morning rush hour and southbound during evening rush hour.

With respect to claim 8, when the traffic in the HOV lanes is southbound, the electronic sign on the rear portion of the sign structure, traffic is capable of viewing the billboard in a rearview orientation.

With respect to claim 13, picture B shows an electronic screen.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pictures A and B in view of Anderson, U. S. Patent 2,765,554. Anderson teaches a sign structure comprising a two lateral supports 4, central support 14, and horizontal support 16. It would have been obvious to one having ordinary skill in the art at the time this invention was made to construct the sign taught by Pictures A and B with a central support beam as taught by Anderson to provide a means enhance the structural integrity of the sign structure.

Claims 14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pictures A and B in view of Dunne, U. S. Patent 4,015,349.

With respect to claim 14 and 16, Dunne teaches an electronic highway sign, wherein the sign can be operated either locally or remotely. (Column 2 lines 39-46). It would have been obvious to one having ordinary

skills in the art at the time this invention was made to construct the electronic sign taught by Pictures A and B with the remote operating means as taught by Dunne to provide a means to selectively change the message on the electronic sign without traveling the location of the sign.

4. Claims 10, 11, 12, 17, 18, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Picture A and B in view of Johnson, U. S. Patent 2,052,771.

Johnson teaches an existing sign structure comprising a vertical support post 8, a horizontal support arm 9, and a sign 6 secured to the horizontal support arm. Johnson also teaches a supplemental sign member 19 adapted to cover the existing sign 6. The sign cover member has a first and second face 21 having indicia different than the indicia on the existing sign 6. Johnson also teaches that the cover 19 may be made of any suitable material such as paper or cloth.

Assuming one of the existing sign panel of the Pictures A and B correspond to the frame, it would have been obvious to one having ordinary skill in the art at the time this invention was made to construct the sign taught by Pictures A and B with a replacement sign cover as taught by

Johnson to selectively change the information presented on the sign structure.

With respect to claim 12, Johnson teaches the replacement sign cover 19 can be made of any suitable material such as cloth. Since the applicant does not disclose that vinyl, plastic, or canvas solves any stated problem or is for any particular purpose, it appears that constructing the sign of any suitable cloth as taught by Johnson would perform equally well.

Allowable Subject Matter

Claim 9 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

5. Applicant's arguments filed April 5, 2005 have been fully considered but they are not persuasive. The applicant argues that signs depicted Pictures A and B cited in the office action show only directional information and traffic signs. The applicant points out that the claims recites only "billboard advertising". The recitation to the "billboard messages" has been deleted from the claim language.

The examiner contends the indicia seen on each of the billboard sign show in Picture A and B corresponds to advertisement. According to Webster's New Collegiate dictionary advertisement is a "public notice". The sign on the billboard sign can be considered a public notice.

The rejection is maintained.

Conclusion


6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cassandra Davis whose telephone number is 571-272-6642. The examiner can normally be reached on Monday-Friday 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 571-272-6651. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Cassandra Davis
Primary Examiner
Art Unit 3611